

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|--|--------------------------------------|----------------------------|--|------------------------------------|---------------------------------|
| Investigator: Christopher Anderson | Team: Squad #12 | CCRB Case #: 201908912 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Saturday, 10/05/2019 5:56 PM | Location of Incident: [REDACTED] | Precinct: 73 | 18 Mo. SOL 4/5/2021 | EO SOL 11/20/2021 | |
| Date/Time CV Reported Sun, 10/06/2019 4:18 AM | CV Reported At: Other City agency | How CV Reported: E-mail | Date/Time Received at CCRB Thu, 10/10/2019 11:01 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------|--------|--------|---------|
| 1. POM Jamal Moyer | 20924 | 958958 | 073 PCT |
| 2. POM Dana Ladson | 10196 | 941282 | 073 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|-----------------------|-----------|--------|----------|
| 1. POM Sukhvinder Tak | 12948 | 957202 | 073 PCT |
| 2. POM Andrew Chacon | 19210 | 958391 | 073 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|----------------------|--|-----------------------------|
| A.POM Dana Ladson | Abuse: Police Officer Dana Ladson entered § 87(2)(b) in Brooklyn. | [REDACTED] |
| B.POM Jamal Moyer | Abuse: Police Officer Jamal Moyer entered § 87(2)(b) in Brooklyn. | [REDACTED] |
| C.POM Dana Ladson | Force: Police Officer Dana Ladson used pepper spray against § 87(2)(b) | [REDACTED] |
| § 87(4-b) § 87(2)(g) | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

Case Summary

On October 6, 2019, § 87(2)(b) filed, via 311, this complaint, which was subsequently received at the CCRB on October 10, 2019, on behalf of § 87(2)(b).

On October 5, 2019, at approximately 5:56 p.m., § 87(2)(b) was outside of § 87(2)(b) in Brooklyn with some of his acquaintances, including § 87(2)(b), § 87(2)(b), § 87(2)(b) girlfriend, and § 87(2)(b), § 87(2)(b) assisted § 87(2)(b) in attempting to start the engine of a motorcycle. To do so, § 87(2)(b) rode the motorcycle in the roadway and on the sidewalk. PO Dana Ladson and PO Jamal Moye of the 73rd Precinct approached § 87(2)(b) who entered § 87(2)(b). Both officers followed him inside (**Allegation A -Abuse of Authority: Entry of Premises,** § 87(2)(g) (**Allegation B -Abuse of Authority: Entry of Premises,** § 87(2)(g)) and attempted to apprehend him. During this process, PO Ladson used pepper spray against § 87(2)(b) (**Allegation C -Force: Pepper spray,** § 87(2)(g), § 87(2)(b) was arrested and transported to the 73rd Precinct stationhouse, where he received medical treatment. § 87(2)(b) was charged with § 87(2)(b), § 87(2)(a) 160.50.

§ 87(4-b) § 87(2)(g)

Video footage recovered in this case was recorded by § 87(2)(b) on his personal digital device and provided to the CCRB by § 87(2)(b). This footage is attached to Board Review 02 to 04. Additional footage, recorded by residential surveillance cameras, was provided to the CCRB by § 87(2)(b). This footage is attached to Board Review 05 to 07. Body-worn camera footage recorded by PO Moye was provided to the CCRB by the NYPD's Legal Bureau; this footage is attached to Board Review 08. These three categories of footage, respectively, are summarized in Board Review 29 to 31.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Dana Ladson entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Police Officer Jamal Moye entered § 87(2)(b) in Brooklyn.

It is undisputed that at approximately 5:56 p.m. on October 5, 2019, § 87(2)(b) sat atop a motorcycle outside § 87(2)(b) in Brooklyn and moved on it in the roadway and on the sidewalk of Blake Avenue. § 87(2)(b) was charged with § 87(2)(a) 160.50.

(Board Review 01).

§ 87(2)(b) provided both a sworn statement (Board Review 32) and telephone statement (Board Review 09) to the CCRB. Within these statements, she described the layout of § 87(2)(b) as having a non-locking exterior gate leading to the building façade. The building contained three

households and a common hallway on the first floor. The hallway could be entered by either entering the building's front door or its attached garage, which contained a door leading to the hallway. In this investigation, photographs of the building exterior were taken (Board Review 32).

In his testimony to the CCRB, § 87(2)(b) stated (Board Review 10) that after riding the motorcycle, § 87(2)(b) and his girlfriend stood at the intersection of Blake Avenue and Legion Street and informed § 87(2)(b) that a marked NYPD van they had seen earlier appeared as if it would “spin around.” PO Ladson and PO Moye moved past the location in their vehicle, and someone instructed § 87(2)(b) to “keep an eye out” because officers might “harass” him. § 87(2)(b) entered a gate leading to the front of § 87(2)(b) looked at the intersection, and saw the officers' van turn left onto Blake Avenue and stop. § 87(2)(b) entered § 87(2)(b) by walking through the open door of a garage attached to its side. § 87(2)(b) entered the building basement and did not think that officers had been pursuing him. From the basement, § 87(2)(b) heard individuals speaking, and he thought officers had entered the location. Because he thought he had not done anything wrong, § 87(2)(b) exited the basement.

In exterior surveillance camera footage (Board Review 05), at the start of the footage, § 87(2)(b) sits on a motorcycle in the roadway to the left of a moving vehicle, and an individual pushes the rear of the motorcycle. The motorcycle moves in the incorrect lane of traffic. The individual continues pushing the motorcycle, and § 87(2)(b) moves forward and out of view. When § 87(2)(b) re-enters view, he moves, on the motorcycle, onto the sidewalk and immediately behind multiple individuals standing nearby, on the sidewalk. Their specific movements as § 87(2)(b) passes them are unclear. An individual pushes the motorcycle again, and § 87(2)(b) rides the motorcycle off of the sidewalk and into the roadway.

Portions of exterior (Board Review 05, starting at the 01m49s mark) and interior (Board Review 28, starting at the 00m05s mark, rotated from original in IA 59) surveillance footage were spliced into a single video (Board Review 13) to trace § 87(2)(b)'s and the officers' movements. § 87(2)(b) looks in the direction where the officers' vehicle later appears and walks to an exterior gate as the officers' vehicle stops behind him. § 87(2)(b) enters the interior of § 87(2)(b) and the officers enter the same area, via the same route, approximately ten seconds later.

In their testimony to the CCRB, both PO Ladson (Board Review 11) and PO Moye (Board Review 12) stated that § 87(2)(b) rode a motorcycle on the sidewalk in a “reckless” manner in that he rode it on a sidewalk and caused pedestrians to move out of his path. After observing this, the officers returned to the location after approximately thirty seconds. At that time, § 87(2)(b) entered § 87(2)(b) the officers exited their vehicle. PO Ladson followed § 87(2)(b) into the residence because he had seen § 87(2)(b) commit reckless driving, and PO Moye entered because he had seen § 87(2)(b) commit reckless driving and reckless endangerment; the officers did not enter for any other reason and described their entry as a hot pursuit entry based on the observation of a crime. Both officers gained access to the building by entering the garage, whose shutter door was open, and entering an open door inside the garage that connected to a hallway, where they encountered § 87(2)(b).

§ 87(2)(g) People v. Caputo, 155 A.D.3d 648 (Board Review 15), the court found that officers were justified in making a warrantless entry into the defendant's home under the doctrine of hot pursuit. § 87(2)(g) the officers in Caputo witnessed the defendant engage in erratic and dangerous driving. In Caputo, the officers pursued with their lights and sirens activated. After pursuing the vehicle and seeing it stopped and unoccupied, the officers approached it and saw it and an open garage door immediately next to it, deducing the defendant's path of movement but not seeing him enter the garage. The officers then gained entry to

the home via peaceful entry through the garage's open door.

§ 87(2)(g)

In People v. McBride, 14 N.Y.3d 440 (Board Review 33), the court reasserted the axiom that a warrantless entry into a home to make an arrest is unreasonable absent circumstances that would allow for an exception. The court identified exigent circumstances as one such exception and outlined a multi-prong test to determine whether this circumstance could be applied. Among the factors to be considered are the gravity or violent nature of the offense, a belief that the suspect is armed, a strong belief that the suspect is in the premises to be searched, a likelihood that the suspect would escape, and the peaceful nature of the entry.

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Force: Police Officer Dana Ladson used pepper spray against § 87(2)(b)

It is undisputed that PO Ladson discharged his OC spray against § 87(2)(b)

§ 87(2)(b) stated that prior to PO Ladson discharging his OC spray, both PO Ladson and PO Moye instructed § 87(2)(b) to place his hands behind his back, did not issue any other commands, and attempted to grab hold of § 87(2)(b)'s right and left forearms, respectively. § 87(2)(b) voluntarily moved his arms behind his back and turned his body back and forth to alternately face PO Ladson and PO Moye as he spoke, asking them why they were attempting to arrest him. § 87(2)(b) did not do anything else with his arms and did not pull them away from the officers' grasp. PO Moye held both of § 87(2)(b)'s wrists together with one of his hands. This interaction lasted approximately ten seconds, and PO Ladson discharged his OC spray after this.

§ 87(2)(b) stated in her in-person statement that she heard commotion on the building's first floor, and when she descended the interior stairway towards the first floor, she saw § 87(2)(b) "struggling" with the officers in that he "resisted" and pulled his arms away from one of them. § 87(2)(b) yelled, § 87(2)(b) Just let them. Don't fight back, § 87(2)(b) Just let them do whatever. Don't say anything. Just let them."

In interior surveillance footage (Board Review 28), starting at the 00m58s mark, § 87(2)(b) enters view and moves backwards, away from the officers. Both officers reach towards § 87(2)(b)'s body, and § 87(2)(b)'s left arm moves upwards in an arc behind him, over his head, and forward. PO Moye and PO Ladson both appear to grab hold of § 87(2)(b)'s arms. § 87(2)(b) and the officers, all appearing to continue contacting each other, move in a circular pattern for several seconds, with § 87(2)(b) moving backwards away from the officers and PO Ladson, at times, moving quickly forwards and backwards. § 87(2)(b) continues facing the officers during this process. § 87(2)(b) moves out of view, and the officers quickly follow him. § 87(2)(b) enters view, facing the officers, and moves backwards against a wall. Both officers remain within an arm's length of him. § 87(2)(b) moves out of view. This process lasts approximately twenty-five seconds.

PO Ladson stated that after encountering § 87(2)(b) inside § 87(2)(b) he instructed § 87(2)(b) more than once in a total number of times he could not recall, to provide his hands so that he could be handcuffed and arrested. § 87(2)(b) verbally resisted the command by saying, "No," and he did not comply with the command at any point. § 87(2)(b) physically resisted the command by moving back and forth, tensing his body, and "flailing" his arms in a circular motion above his head. § 87(2)(b) did not resist in any other way. After approximately one minute, PO Ladson discharged his OC spray towards § 87(2)(b) and he was able to gain control of and handcuff § 87(2)(b) after this.

§ 87(2)(g)

OC spray may be used to gain or maintain control of persons who are actively resisting arrest. OC spray shall not be used in situations that do not require the use of physical force. OC spray may reduce or eliminate the need for physical force to effect an arrest and should be regarded as a possible alternative to such force and restraint, where practical. NYPD Patrol Guide, Procedure 221-07 (Board Review 16).

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

§ 87(4-b) § 87(2)(g) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 22).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 23).
- PO Moye has been a member-of-service for four years and has been a subject in four CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)
- PO Ladson has been a member-of-service for thirteen years and has been a subject in seven CCRB complaints and seventeen allegations, one of which was substantiated:
 - 201600537 involved a substantiated allegation of refusal to provide name/shield number against PO Ladson. The Board recommended Command Discipline A, and the NYPD imposed Instructions.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of January 24, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (Board Review 24).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 12

Investigator: Chris Anderson SI Chris Anderson 05/13/2020
Signature Print Title & Name Date

Squad Leader: IM Carlmais Johnson IM Carlmais Johnson July 9, 2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date